

REMARKS

Of claims 1-19 pending in this application, claim 8 has been amended and claims 1-7 and 12-19 have been withdrawn. In addition, the specification was amended in several places to correct typographical errors. Reconsideration of this application in view of this response is respectfully requested.

The examiner has withdrawn claims 11-12 from this examination, as he disagrees that FIGS. 24a-d do not show the outer surfaces of an implant each containing complementary polygonal shapes or complementary elliptical shapes. FIGS. 24a and b show complementary polygonal shapes. Therefore, claim 11 should be included with this application.

This application also contains a new formal set of 20 pages of drawings. These drawings are in compliance with 37 CFR 1.121(d).

Claim 8 is objected to as it states a prosthesis for surgical implantation into a bone, comprising an fixation element. Claim 8 has been amended to correctly read "a fixation element".

Claim 8-10 stand rejected under 35 USC 103(a) as being unpatentable over Gerbec et al. in view of Sekel. The examiner states that Gerbec et al. discloses a fixation element (42) having an elongated first section including a first aperture with a threaded inner surface 15, a sleeve 3 having an upper surface 24 terminating in an angular stem 43, recess in said upper surface containing a second aperture aligned with said first aperture of said fixation element and a lower surface 22 having an opening within the sleeve sized to accommodate said first section of said fixation element and a threaded fastener 16 capable of

passing through said second aperture in said recess of said sleeve to threadedly engage said first aperture in said element. Gerbec et al. does not disclose a first section with a threaded outer surface. Sekel teaches outer threaded portions (two threaded portions) that cause a compressive force to be exerted on the wall of the medullary cavity of that bone which results in a strong implant with a high rotational stability (col. 5, lines 54-61). It would have been obvious to one skilled in the art at the time of the invention to construct the implant of Gerbec et al. with the threaded outer surface in view of Sekel for producing a stronger implant.

The Gerbec et al. reference allows body 41 to rotate freely on stem 42 after stem 42 is placed into body 41 and before stem 42 is press fit into 41. This is not possible in the present invention. Once coupled, the two components cannot rotate relative to each other. The threads 346 of screw 348 will cause the body 330 to be pulled down onto the stem, seating it properly in the bone.

Body 330 is designed to bottom-out as the body impinges upon the stem 340a along flat horizontal surfaces. The configuration was used to place load on the stem and to prevent excessive hoop stresses on the bone at the stem level. The body of Gerbec et al. is designed to expand at the portion of the body furthest from bolt 16, and may cause the femur to fracture as the body is expanded deep within the femur.

In addition, there is no teaching or suggestion in either reference that they could be combined. In fact, the two references teach away from combining the two. The use of a double threaded part (sections 24 and 25) taught in Sekel is not compatible with the press fit style of Gerbec et al. There is no teaching in

Gerbac that threaded surfaces could be used to couple the components together – especially threaded surfaces of the bone itself, as this reference teaches a press fit. This is part of the present invention.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite the prosecution.

It is believed that no fee is due with the filing of this response, as no claims were added and the total does not exceed the minimum already paid for. If a fee is due, please charge the fee to deposit Account No. 12-677. If a fee is required for an extension of time under 37 CFR § 1.136 not accounted for, such an extension is requested and the fee should be charged to the aforementioned Deposit Account.

For the reasons given above, it is believed that all claims now contained in this application are in condition for allowance, and such favorable action is respectfully requested.

Respectfully submitted,

Jerrold J. Litzinger

Jerrold J. Litzinger
Attorney for Applicant
Reg. No. 29,402
2134 Madison Road
Cincinnati, Ohio 45208
(513) 871-8812

I hereby certify that this correspondence is being deposited with the United States Copyright Service as first class mail with an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20591-0001. Dec 21, 2005

JERROLD J. LITZINGER
Person Signing Certificate
Jerrold J. Litzinger
Signature of Person Signing
Certificate
Dec 21, 2005
Date of Signature

IN THE DRAWINGS

Twenty sheets of formal drawings are being submitted with this amendment. These drawings are in compliance of 37 CFR 1.121 (d). These drawings will clear up any problems caused by the informal drawings.